

HEBER CITY CORPORATION  
75 North Main Street  
Heber City, Utah  
Planning Commission Meeting  
Thursday, April 24, 2014

6:00 p.m. - Regular Meeting

Present: Planning Commission: Darryl Glissmeyer  
Harry Zane  
Kieth Rawlings  
Stacie Ferguson  
Michael Thurber

Absent: Clayton Vance  
David Richards  
Mark Webb

Staff Present: Planning Director Anthony Kohler  
Planning Secretary Karen Tozier  
City Engineer Bart Mumford

**Others Present:** Pam Patrick, Harold Patrick, Todd Cates, Paul Berg, Lee Burbidge, Blake Allen, Fred Schloss, Reid Dickson, Kaleb Cremen, and Danny Warner.

Chairman Rawlings convened the meeting at 6:06 p.m. with a quorum present. Clayton Vance and David Richards were excused. Stacie Ferguson was not present at the start of the meeting.

**Pledge of Allegiance: Commissioner Zane**

**Minutes: March 27, 2014 Regular Meeting**

Commissioner Thurber voted to approve the March 27, 2014 Regular Meeting Minutes. Commissioner Glissmeyer seconded the motion. Voting Aye: Commissioners Zane, Glissmeyer, Thurber, and Rawlings. Voting Nay: none. The motion carried.

**April 10, 2014 Regular Meeting**

Commissioner Glissmeyer moved to approve the April 10, 2014 Regular Meeting Minutes. Commissioner Thurber seconded the motion. Voting Aye: Commissioners Zane, Glissmeyer, Thurber, and Rawlings. Voting Nay: none. The motion carried.

**Item 1** **Red Ledges requests Subdivision Final Approval for Red Ledges Phase 2C located at the intersection of Haystack Mountain Drive and Chimney Rock Road.**

**REQUEST**

Red Ledges is proposing Phase 2C, consisting of nine traditional lots. The lots backup to the future Bypass Road and will have a trail along the western edge of this plat. The master plan agreement requires that the bypass trail be constructed with the bypass by October 31, 2016.

## DISCUSSION

The Planning Commission discussed the following points:

- Bart Mumford noted in answer to a question that the Petitioner will have the final plans finished before this goes to City Council for final.

## MOTION

Commissioner Zane moved that we recommend approval for Red Ledges' request for subdivision final approval for Red Ledges Phase 2C located at the intersection of Haystack Mountain Drive and Chimney Rock Road contingent upon they meet all the requirements requested by the staff and the city engineer. Commissioner Glissmeyer seconded the motion.

## VOTE

	AYE:	NAY:	ABSTAINING:
Darryl Glissmeyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kieth Rawlings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael Thurber	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Harry Zane	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The motion carried. Commissioner Ferguson arrived to the meeting at 6:16 p.m.

## Item 2      Mountain West Enterprises requests Subdivision Concept Approval of the Valley Heights Subdivision located at 1050 North Mill Road

## REQUEST

Anthony Kohler presented information on the request for concept approval. The property was annexed into the city within the last few years and is subject to an annexation agreement. The property is zoned R-1 Residential, requiring a minimum 100 feet of frontage and 10,000 square feet per lot.

The proposed subdivision provides open space along Valley Hills Boulevard, with one lot fronting that street, which is designated as a Minor Collector Street. The proposed subdivision has fewer lots than originally proposed at annexation because the lot layout now better reflects the natural drainage channel traversing through the property. Lot 20, while oddly shaped, is 100 feet wide at the front setback and meets the requirements of the code, and has a sufficient area for a home to be built consistent with the requirements of the code. Lots 6, 7, and 8 are less than 100 feet wide, but as per Section 18.68.175, subdivisions providing open space along a collector street may reduce the lot widths by up to 25%, and these lots exceed the minimum 75 feet width.

The development will eventually be changed to a different water pressure zone and will need to install the appropriate waterlines so that transition can take place in the future. The Stone Creek Development will install the necessary lines to make it possible for the future water pressure zone to be put in place.

## DISCUSSION

The Planning Commission discussed the following points:

- Paul Berg of Berg Engineering made a presentation. Open space was discussed. The center area and trail will be maintained by the homeowners association. Lots 20-28 will be in the 2<sup>nd</sup> phase and will be on the water line that comes through with the Red Ledges bypass. The lots in the first phase can be supported by the existing water line.
- Roads: what to do at the interface of Mill Road going into the new subdivision. The new road has a different standard, 66 feet of right-of-way not 72 feet of right-of-way.
- The plan is to build all the roads and put in all the infrastructure but the 2<sup>nd</sup> phase would not be allowed to receive building permits until the water line from the Red Ledges bypass is completed.
- The canal be lined with concrete;
- Subdivision design was discussed at length in respect to open space and lot width, water drainage, avoiding flooding, and lining the lots off the interior streets and not the collectors.

Pam Patrick who resides in Wasatch View Acres asked questions on water. She was concerned with their wells going dry. She also was concerned for the deer in the area. It was noted that an environmental study could be a requirement. She indicated she would like to see the lot size in the subdivision be one acre lots.

## MOTION

Commissioner Zane moved that we recommend concept approval for Mountain West Enterprises for Valley Heights Subdivision located at 1050 North Mill Road contingent upon they meet all the requirements of the annexation agreement and they meet all the requirements of the staff and the city engineers. Commissioner Ferguson seconded the motion. The environmental impact study mentioned before was brought up. Commissioner Zane amended his motion to add the environmental impact study on deer migration. Paul Berg asked in reference to the environmental impact study what they would specifically like them to look at. The Commission indicated to ask the Division of Wildlife Resources what critical habitat and what the migration is for the deer; Commissioner Zane concurred.

Harold Patrick voiced his concern over water levels. He indicated the static level of their well water had dropped 80 feet in six years. He wanted to know what would be done to guarantee the aquifer was not depleted. Bart Mumford indicated we need to live within the water rights for that well. There was further discussion. Bart Mumford thought the additional water levels had been from recharge from the canal before it was lined. Dave Nielsen spoke on his experience with his well which he had to drop 20 feet after the canal was lined. He indicated it has not dropped since. Commissioner Ferguson's second still stood.

## VOTE

	AYE:	NAY:	ABSTAINING:
Stacie Ferguson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Darryl Glissmeyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kieth Rawlings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael Thurber	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Harry Zane	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The motion carried.

**Item 3**      **Public Hearing to consider request by Lee Burbidge to amend the Heber City General Plan to designate Center Street from 100 West to 200 West on the south side of Center Street, within Block 80 as future R-C Residential Commercial Overlay Zone.**

**REQUEST**

Anthony Kohler addressed the Commission. He indicated he would like to make the presentations on the following three related items and hold one public hearing to address all three but then to have three separate motions; one for each item. He then presented the three related items together (Items 3, 4, and 5 which were the general plan amendment, zone map amendment and the zoning ordinance amendment). The petitioner is requesting to amend the Heber City General Plan to designate the south side of the Center Street block between 100 West and 200 West as future R-C Residential Commercial. They would only apply the Residential-Commercial Overlay Zone to the Questar parcel located at 167 West Center Street at this time. In respect to this zone change; this is not considered a spot zone. Applying the Residential-Commercial Overlay Zone would match the proposal to the Heber City General Plan. He reviewed the proposed changes to the Heber City General Plan, the Zoning Map, and the RCOZ including verbiage changes and permitted uses.

**PUBLIC HEARING COMMENTS**

Chairman Rawlings opened the public hearing for the three related items. There were no public comments.

The Petitioner, Lee Burbidge, explained their company's plans for the former Questar property. This would be to make for more of an office setting. Regarding traffic; they have three pickup trucks for the office staff and would occasionally have clients come to the building. They plan to landscape the lot. Mr. Burbidge indicated the building fits them perfectly.

Having no public comments, Chairman Rawlings closed the public hearing for these three related items.

**DISCUSSION**

The Planning Commission discussed the following points:

- Possibly removing the words "such as" in 18.50.020(D).

**MOTION**

Commissioner Zane moved that we recommend approval of Lee Burbidge's request to amend the Heber City General Plan to designate Center Street from 100 West to 200 West on the south side of Center Street, within Block 80 as future R-C Residential Commercial Overlay Zone. Commissioner Thurber seconded the motion.

**VOTE**

	AYE:	NAY:	ABSTAINING:
Stacie Ferguson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Darryl Glissmeyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Kieth Rawlings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael Thurber	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Harry Zane	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The motion carried.

**Item 4**      **Public Hearing to consider request by Lee Burbidge to rezone property located at 167 West Center Street on Block 80 (old Questar Facility) to apply the R-C Residential Commercial Overlay Zone.**

As noted this had been presented and discussed previously and the public hearing had been held with the prior item.

**MOTION**

Commissioner Glissmeyer moved that we approve to rezone property located at 167 West Center Street on Block 80, the old Questar Facility, to apply the R-C Residential Commercial Overlay Zone. Commissioner Thurber seconded the motion.

**VOTE**

	AYE:	NAY:	ABSTAINING:
Stacie Ferguson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Darryl Glissmeyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kieth Rawlings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael Thurber	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Harry Zane	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The motion carried.

**Item 5**      **Public Hearing to amend Heber City Municipal Code Chapter 18.50 the R-C Commercial Overlay Zone, altering the Objectives and Characteristics in Section 18.50.010 and the Permitted Uses in Section 18.50.020.**

As noted this had been presented and discussed previously and the public hearing had been held in conjunction with Items 3 and 4 as this was a related item.

**MOTION**

Commissioner Zane moved that we recommend the amendment of Heber City Municipal Code Chapter 18.50 the R-C Commercial Overlay Zone, altering the Objectives and Characteristics in Section 18.50.010 and the Permitted Uses in Section 18.50.020. Commissioner Glissmeyer seconded the motion. There was clarification on the motion that the motion was including the proposed changes to Section C and to Section D.

**VOTE**

	AYE:	NAY:	ABSTAINING:
Stacie Ferguson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Darryl Glissmeyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kieth Rawlings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael Thurber	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Harry Zane	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The motion carried.

**Item 6**      **Blake Allen requests approval of proposed 2 Lot Subdivision located at 390 North 300 East.**

**REQUEST**

The petitioner is proposing to split the property located on the southeast corner of 400 North and 300 East into two lots. Sidewalk, curb and gutter do not exist along the frontage of the property or in the neighborhood vicinity. The property is located within the R-2 Residential Zone and Infill Overlay Zone. The proposed lots meet the requirements for the Infill Overlay Zone. A fire hydrant exists on the northwest corner of the intersection within 250 feet of the property lines of the subdivision.

Blake Allen was present to answer questions.

**DISCUSSION**

The Planning Commission discussed the following points:

- How the existing home would be treated; the home was older and thought was that it might possibly be classified as historical. Blake Allen explained the updates he planned to make to the house.

**MOTION**

Commissioner Thurber moved that we approve the proposed subdivision as consistent with applicable codes, Chapter 18.83 Neighborhood Infill Zone, and Chapter 17 Subdivisions, contingent upon deed restriction being recorded for future curb, gutter, sidewalk and asphalt improvements along the frontage of 300 East and 400 North, water rights should be turned over to the City in the amount determined by the City Engineering and water and sewer laterals should be constructed to City standards. It (the subdivision) is on the corner of 400 North and 300 East, two lots, 390 North and 300 East. Commissioner Zane seconded the motion.

**VOTE**

	AYE:	NAY:	ABSTAINING:
Stacie Ferguson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Darryl Glissmeyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kieth Rawlings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael Thurber	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Harry Zane	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The motion carried.

## **Item 7**

### **Public Hearing to repeal Section 111 of the Heber City Commercial Districts C-2 & C-4 Zones Design Criteria regarding the requirement for a vacancy/dark store agreement for buildings over 15,000 square feet.**

Anthony Kohler presented information. He recommended removing Section 111 of the C-2 & C-4 Design Criteria to be business friendly for smaller businesses in areas that are adjacent to and within downtown where development should be encouraged. This approach will be more consistent with the regulation of big boxes in Heber City, where stores over 60,000 square feet are only permitted in the MURCZ Zone, and for those over 60,000 square feet, a Vacancy Agreement is required.

## **BACKGROUND**

In review of the recent Labrum Automotive and TSC development proposals, the Planning Commission discussed the potential for altering the threshold for when a vacancy and maintenance agreement is required for larger scale retail stores. Currently the C-2 & C-4 Design Criteria require an agreement for buildings larger than 15,000 square feet. The C-2, C-3, C-4, and I-1 Zones limit the gross floor area of retail buildings to no more than 60,000 square feet. The MURCZ Zone (Walmart area) requires buildings larger than 60,000 square feet to enter into a Vacancy/Maintenance Agreement. Only the C-2 and C-4 Zones require a Vacancy/Maintenance agreement for buildings over 15,000 square feet. The Planning Commission discussed potentially increasing the 15,000 square foot requirement to 30,000, 40,000, or 50,000 square feet.

## **DISCUSSION**

The Planning Commission discussed the following points:

- What would happen as an example to Smith's Food and Drug if they wanted to add on? The Smith's store is at approximately 55,000 square feet now. They could add on up to 60,000 square feet but not go over that because the zoning does not allow this.
- Discussion on whether this could affect the PCMU Zone at the north end of town;
- Is the Planning Commission satisfied with the point being at 60,000? The Commission was satisfied with this at this time.

Chairman Rawlings opened the public hearing. There were no comments from the public. The public hearing was closed.

## **MOTION**

Commissioner Ferguson moved to recommend approval of repealing Section 111 Dark Store/Vacancy Agreement of the C-2 and C-4 Design Criteria. Commissioner Thurber seconded the motion.

## **VOTE**

	AYE:	NAY:	ABSTAINING:
Stacie Ferguson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Darryl Glissmeyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kieth Rawlings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael Thurber	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Harry Zane	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The motion carried.

The Planning Commission was asked whether they plan for this to be retroactive on the proposed building for Labrum Ford and Tractor Supply Company. The Commissioners commented this was their intent. There was a decision to make a motion on this for the record.

Commissioner Ferguson moved to recommend approval of repealing Section 111 Dark Store/Vacancy Agreement of the C-2 and the C-4 Design Criteria and that it is retroactive for Labrum and the Tractor Supply Company (TSC). Commissioner Glissmeyer seconded the motion.

### **VOTE**

	AYE:	NAY:	ABSTAINING:
Stacie Ferguson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Darryl Glissmeyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kieth Rawlings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael Thurber	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Harry Zane	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The motion carried.

Reid Dickson, the engineer for the TSC project walked into the meeting at this time and was informed of the motion made prior designating the recommendation for the repealing of Section 111 Dark Store/Vacancy Agreement being retroactive for TSC. Mr. Dickson indicated that was why he was attending the meeting and before leaving mentioned that he was pleased with this recommendation.

### **Item 8**      **Public Hearing to consider amendment to Heber City Municipal Code Sections 18.68.601 through 606 regarding Residential Facilities for Handicapped Persons**

Anthony Kohler presented information on the proposed ordinance. All the references are being changed from “handicapped” to “disabled”. The amendments were being proposed to bring the ordinance in compliance with state and federal statutes relating to residential facilities. Anthony Kohler reviewed changes to the ordinance publicly.

Danny Warner was present. He suggested striking D7 because for sober living homes this regulation has been struck down and this does not apply to recovering people; the reference in D7 was to substance abuse facilities.

Chairman Rawlings opened the public hearing.

### **PUBLIC HEARING COMMENTS**

Danny Warner explained why he had asked for changes to the zoning ordinance. People with a disability need to have access and not be restricted to living within access to downtown. He indicated he had not read the language in regard to schools, so he could comment on that at this time.

He explained that if you can’t make a requirement for regular residents you cannot require it for disability homes. There was a question on whether someone needs a business license to run this type of home. Mr. Warner indicated he would be happy to do research on some of the requirements in the ordinance, he had not seen them before.

There were no further comments from the public. Chairman Rawlings closed the public hearing.

## DISCUSSION

The Planning Commission discussed the following points:

- D6 which states no dangerous persons permitted. Is this arbitrary? How does this relate to other facilities? Some Commissioners thought this needed to be reworked.
- Find out if the State is following the requirements of D7 and if it is legal to require this.
- To have Dan Warner comment on the ordinance and forward the comments to the City Attorney;
- Should a business license be required but not impose a business licensing fee?
- Qualifying for ADA: how to show that residents of the facility are in recovery. Dan Warner indicated they have them go to 3-step meetings;
- The 1320 foot distance between facilities is too restrictive; the State has no requirements. However research shows that concentrating facilities in one neighborhood is not good also. Discussion on what a proper distance should be. There were suggestions of 800 feet or two blocks.
- Discussion to place this on the next meeting's agenda.

## MOTION

Commissioner Thurber recommended that we table this discussion until we get some information back for a later decision. Commissioner Ferguson seconded the motion.

## VOTE

	AYE:	NAY:	ABSTAINING:
Stacie Ferguson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Darryl Glissmeyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kieth Rawlings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael Thurber	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Harry Zane	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The motion carried.

## ADMINISTRATIVE ITEMS:

There was discussion on open space transfer fees. About 40 out of 50 states do this. Utah does not have enabling legislation to do this. Commissioner Thurber said that there is one city that already does this. It was noted this is not a fee it is a tax. Utah League of Cities and Towns' opinion is the City probably could do this but their legal counsel, Dave Church's, warning was that he thought the legislature would ban it if any community were to do this. It was noted the real estate community would be against this tax. Church recommended that the City does not do this. This is probably not a viable option. The only way would be able to allocate as taxing. The conservation fee that Wasatch County uses was explained. The process of property annexation was discussed – the landuse/zoning could be compared to what the landuse/zoning was while in the County. There could possibly be an interlocal agreement of no annexation and the county will not rezone the property at a higher density. One option could be to approach our state representative for the transfer tax and take it to the legislature next January to see.

Commissioner Glissmeyer asked for discussion on attendance of Commission members. Attendance was discussed briefly.

Commissioner Glissmeyer moved to dismiss the meeting. Commissioner Thurber seconded the motion.

### **VOTE**

	AYE:	NAY:	ABSTAINING:
Stacie Ferguson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Darryl Glissmeyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kieth Rawlings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael Thurber	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Harry Zane	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The motion carried and the meeting adjourned at 8:22 p.m.